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JAPANESE LAW
OF
NATIONALITY




COMPILED BY
GILBERT BOWLES

TOKYO

1915

UNIVERSITY OF CALIFORNIA



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Japanese Law, Statistics, etc.

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Copies of "The Japanese Law of Nationality", also copies of a uniform pamphlet, "Land Tenure by Foreigners in Japan", a reprint from the November (1914) number of *The Japan Peace Movement*, may be obtained from Gilbert Bowles, 30 Koun Cho, Mita, Tokyo.

7. 11. 1915
6. 11. 1915

JAPANESE LAW OF NATIONALITY

Compiled by Gilbert Bowles.

Introductory. This summary of the Japanese Law of Nationality was published in the English Department of the April (1915) number of *The Japan Peace Movement*, organ of the Japan Peace Society and the American Peace Society of Japan.

During the past year questions concerning the Japanese Law of Nationality have become frequent. This has naturally arisen with more serious consideration of the naturalization of Japanese resident in America. In personal interviews and conferences it has been difficult to obtain accurate information concerning Japanese laws governing the losing of nationality by Japanese subjects and the acquiring of Japanese nationality by foreigners. The response given to the publication, in the November (1914) number of *The Japan Peace Movement*, of a summary of Japanese law concerning "Land Tenure by Foreigners in Japan" has encouraged the compilation of a similar summary of the Japanese "Law of Nationality."

The object in endeavoring to present such facts, whether concerning land tenure or naturalization, is neither defense nor condemnation. Whatever be the Japanese or American laws concerning such important subjects, it is necessary that the facts be known. If the wider publicity of laws concerning land tenure or nationality reveals just causes for anxiety and criticism, intelligent and frank discussion will naturally point toward amendment. It is known that some very influential Japanese believe certain sections of the Japanese "Law of Nationality" should be amended.

The Japanese "Law of Nationality" (Law No. 66), called in Japanese, "Kokuseki-Hō," was promulgated on March 16, 1899, and came into force on April 1 of the same year. Extracts are made from this Law of twenty-eight articles, as translated by Mr. J. E. De Becker LL. B., of Yokohama, Legal Adviser to the Yokohama and Tokyo Foreign Board of Trade, and printed in the Appendix of his "Annotated Civil Code of Japan." Mr. De Becker says "You are welcome to make any use you like of it." Headings have been given and a general analysis made,

with a few notes, for the sake of reference. Only the parts so designated by marks are exact quotations from the Law.

NATIONALITY OF CHILDREN.

Article 1. First sentence: "A child is a Japanese if his or her father is a Japanese at the time of his or her birth."

Article 3. "A child whose father is unknown or possesses no nationality is a Japanese provided that his or her mother is a Japanese."

Article 4. "A child born in Japan is a Japanese when both his or her father and mother are unknown or possess no nationality."

HOW ALIENS MAY ACQUIRE JAPANESE NATIONALITY.

Article 5. "An alien acquires Japanese nationality in any of the following cases:—

1. When she becomes the wife of a Japanese ;
2. When he becomes the *nyufu* (a man married to a female head of a house) of a Japanese ;
3. When he or she is recognized by his or her father or mother who is a Japanese ;
4. When he or she is adopted by a Japanese ;
5. When he or she becomes naturalized."

"Recognition," as used in this article is referred to as follows in a personal note by Mr. T. Miyaoka of the Tokyo Bar, Legal Adviser to the Tokyo Chamber of Commerce: "When an alien has been recognized by the father or mother who is a Japanese as his or her son or daughter." Mr. DeBecker adds that "recognition must be effected by the observance of certain legal formalities provided for in the Civil Code and ancillary laws."

Article 6. This article says that one acquiring Japanese nationality by recognition must be "a minor according to the law of his or her own country" and that, if a woman, she be "not the wife of an alien."

Article 7. "An alien may become naturalized with the permission of the Minister for Home Affairs.

The Minister for Home Affairs may not permit naturalization unless the following conditions are fulfilled:—

1. That he or she has possessed a domicile in Japan for at least five years consecutively ;
2. That he or she is at least full twenty years of age and possesses

legal capacity according to the law of his or her home country ;

3. That he or she is of good conduct and behaviour ;

4. That he or she is possessed of property or of ability to earn an independent livelihood ;

5. That he or she possesses no nationality or that he or she is to lose his or her nationality as a consequence of acquisition of Japanese nationality."

Article 8. "The wife of an alien cannot become naturalized except together with her husband."

Article 9. "Those aliens mentioned below and who are actually domiciled in Japan may become naturalized even when the condition of No. 1 of Paragraph 2 of Art. 7 is not fulfilled :—

1. Those whose fathers or mothers were Japanese ;

2. Those whose wives were Japanese ;

3. Those born in Japan ;

4. Those who have possessed places of residence in Japan for at least ten years consecutively.

Those mentioned in Nos. 1-3 of the preceding Paragraph cannot effect naturalization unless they have possessed places of residence in Japan for at least three years consecutively, but this does not apply to those mentioned in No. 3 when their fathers or mothers were born in Japan."

Article 10. "An alien whose father or mother is a Japanese may, provided that he or she actually possesses a domicile in Japan, become naturalized even when the conditions mentioned in Nos. 1, 2, and 4 of Paragraph 2 of Art. 7 are not fulfilled."

Article 11. "Notwithstanding the provisions of Paragraph 2 of Art. 7, the Minister for Home Affairs may, subject to Imperial sanction, permit the naturalization of an alien who has rendered specially meritorious services to Japan."

Article 12. "Naturalization shall be publicly notified in the *Official Gazette*.

Naturalization cannot be set up against third persons in good faith until after public notice thereof has been given."

Article 13. "The wife of an alien who acquires Japanese nationality acquires the same nationality together with her husband

The provisions of the preceding paragraph do not apply in case there are provisions to the contrary in the law of the home country of the wife."

Article 14. “In case the wife of a person who has acquired Japanese nationality has not acquired Japanese nationality in accordance with the provisions of the preceding Article, she may become naturalized even when the conditions mentioned in Paragraph 2 of Art. 7 are not fulfilled.”

Article 15. “The child of a person who has acquired Japanese nationality acquires Japanese nationality together with his or her father or mother, provided that he or she is a minor according to the law of his or her home country.

The provisions of the preceding Paragraph do not apply in case there are provisions to the contrary in the law of the home country of the child.”

RESTRICTIONS ATTACHING TO ACQUIRED JAPANESE NATIONALITY.

Article 16. “Naturalized persons, children of naturalized persons who have acquired Japanese nationality, and persons who have become adopted children or *nyufu* of Japanese possess none of the rights mentioned below :—

1. To become a Minister of State ;
2. To become the President or Vice-President or a member of the Privy Council ;
3. To become an official of *chokunin* (Imperial appointment) rank in the Imperial Household Department ;
4. To become an Envoy Extraordinary and Minister Plenipotentiary ;
5. To become a general officer in the Army and Navy ;
6. To become the President of the Supreme Court, the President of the Board of Audit, or the President of the Court of Administrative Litigation ;
7. To be a member of the Imperial Diet.”

Concerning the above Article, Mr. J. E. DeBecker says in his “Annotated Civil Code of Japan”, “These restrictions do not apply to the very few aliens who were naturalized by adoption prior to 1st April, 1899. They, in the contemplation of the law, are native-born.”

Article 17. “The Minister for Home Affairs may, subject to Imperial sanction, remove the restrictions mentioned in the preceding Article after the lapse of five years from the time of acquisition of Japanese nationality in the case of persons whose naturalization has been permit-

ted according to the provisions of Art. 11, and, after ten years, in the case of other persons.”

HOW JAPANESE NATIONALITY MAY BE LOST.

Article 18. “A Japanese woman who has married an alien loses Japanese nationality.”

Article 19. “A person who has acquired Japanese nationality by virtue of marriage or adoption loses Japanese nationality in case of divorce or dissolution of adoption only when he or she thereby recovers his or her foreign nationality.”

Article 20. “A person who has voluntarily acquired a foreign nationality loses Japanese nationality.”

Article 21. “The wife and child of a person who has lost Japanese nationality loses Japanese nationality when they have acquired that person’s nationality.”

Article 22. “In case a child who is a Japanese has acquired a foreign nationality by virtue of recognition, he or she loses Japanese nationality; but this does not apply to a person who has become the wife, *nyufu*, or adopted child of a Japanese.”

LIMITATIONS AS TO FREEDOM OF JAPANESE IN GAINING A FOREIGN NATIONALITY.

Article 23. “Notwithstanding the provisions of the preceding five Articles, a male of full seventeen years of age or upwards does not lose Japanese nationality unless he has completed active service in the Army or Navy or he is under no obligation to enter into it.

A person who actually occupies an official post—civil or military—does not lose Japanese nationality notwithstanding the provisions of the preceding six Articles until after he or she has lost such official post,”

REGAINING OF LOST NATIONALITY.

Article 25. “A person who has lost Japanese nationality by virtue of marriage may, with the permission of the Minister for Home Affairs, recover Japanese nationality provided that such person possesses a domicile in Japan after dissolution of the marriage.”

Article 26. “A person who has lost Japanese nationality in accordance with Art. 20 or 21 may recover Japanese nationality provided that he or she possesses a domicile in Japan; but this does not apply

when the persons mentioned in Art. 16 have lost Japanese nationality."

SPECIAL LAW CONCERNING ADOPTION OR BECOMING NYUFU.

According to Law No. 21, July 11, 1898, the Minister for Home Affairs may grant the necessary permission to a Japanese "to adopt an alien or to make him a *nyufu*" ("man married to the female head of a house") in case the alien of "good conduct or behaviour," has "possessed a domicile or place of residence in Japan for at least one year consecutively."

NO RACIAL OR NATIONAL DISCRIMINATION.

In a personal letter to the compiler of this article Mr. J. E. De Becker, writes: "No line is drawn at either nationality or race. The only question considered is—is the applicant likely to make a desirable citizen. If the man himself is all right, then his nationality, or race cuts no figure whatsoever in the matter, and this, I think, is as it should be."

FOREIGNERS WHO HAVE OBTAINED JAPANESE NATIONALITY.

The Japanese Law of Naturalization went into operation in 1899. According to that Law, five years residence in Japan is required before naturalization. The statistics of naturalization under this Law date from 1904 and are as follows:

Foreigners Who Have Obtained Japanese Nationality, 1904 to 1913.

(From Reports of Home Department)

	Naturalized	Adopted and <i>Nyufu</i>	Nationality Regained	Total
English	2	7	5	14
American	2	1	7	10
German	—	1	2	3
Chinese	158	7	17	182
French	5	—	—	5
Korean	—	1	—	1
Portugese	—	1	—	1
Total	167	18	31	216

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